



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning & Development
D. M. Sugimura, Director

CITY OF SEATTLE ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 2300540

Applicant Name: David Douglas, Waterfront Construction Inc. for the Landefelds, owners

Address of Proposal: 6673C NE Windermere Road

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit for the construction of a 60-foot* by 6-foot new residential pier with a 40-foot by 4-foot bridge connecting the pier to the shoreline. Project includes installation of a 6000 pound free-standing hydraulic boat lift adjacent to the pier.

* This component of the proposal has been revised to a 52-foot length.

The following approvals are required:

Shoreline Substantial Development Permit: To allow the construction of a moorage pier in an Urban Residential/Conservancy Recreation (UR/CR) Shoreline Environment.
(Section 23.60.020A Seattle Municipal Code)

SEPA - Environmental Determination - Chapter 25.05 SMC

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition
 or involving another agency with jurisdiction

BACKGROUND DATA

Site and Area Description

The proposal site is located along Lake Washington immediately adjacent, to the south, of Magnuson Park. It is gently sloped overall, and fairly flat in the area near shore, the only location where development is proposed under this permit. A single family residence has been recently permitted pursuant to Building Permit Application No. 2300539. There are a couple of houses to the immediate south, each of which have piers. Piers are common to all houses along the lake in the vicinity. The site is served by easement to NE Windermere Road.

Zoning

Single Family 9600 (SF 9600) with the Urban Residential/Conservancy Recreation (UR/CR) Shoreline Master Program designations.

Proposal Description

The applicant proposes to construct a new moorage pier consisting of two different sections, a 40-foot bridge section anchored to the shoreline, and a 52-foot “pier” section beginning at the waterward end of the bridge. (The two sections together are considered a “pier” under the Land Use Code definition.) The bridge would be 4 feet wide, and the remainder of the pier, 6 feet wide. The so-called “pier” section is proposed to contain the boatlift. The pier will extend into the lake approximately 88 feet from the rock water’s edge as shown on plans. Small diameter steel pilings are proposed, as well as prisms and grating to allow penetration of ambient light below the structure. Portions of the pier (the bridge) are proposed to be only 4 feet wide to limit shade impacts on the nearshore aquatic environment.

Public Comment

No comments were received during the comment period that ended on 2 May 2003. However, there were two phone calls from neighbors highly concerned about the project, the one concern mentioned having to do with interference with swimmers.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of Chapter 23.60; and*
- C. *The provisions of Chapter 173-27 WAC*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

- A. The Policies and Procedures of Chapter 90.58 RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy aims to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60, that also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. The Regulations of Chapter 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program". In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004, meets the development standards for all shoreline environments established in SMC 23.60.152 as well as the criteria and development standards for the shoreline environment in which the site is located, any applicable special approval criteria and the development standards for specific uses.

The site is classified as a waterfront lot (SMC 23.60.924). The shoreline designations for the site are Urban Residential/Conservancy Residential (UR/CR) (SMC 23.60.540 and 360). Residential piers are a permitted use in these shoreline environments.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. The purpose of the UR and CR environments are stated in SMC 23.60.220.C.6 and C 3, respectively. The applicable sections of these regulations to the current proposal are: in

the Conservancy Recreation Environment maximum effort to preserve, enhance or restore the existing natural ecological, biological, or hydrological conditions shall be made in designing, developing, operating and maintaining recreational facilities and in the Urban Residential Environment residential areas shall be protected in a manner consistent with the Single Family Residential Area Policies.

SMC 23.60.064.- Procedures for Obtaining Shoreline Substantial Development Permits

The proposed project is a permitted use in the UR/CR environment (SMC 23.60.540 and 360) and the underlying Single Family Residential 9600 (SF 9600) zoning district (SMC 23.44). As designed, the proposal conforms to the general development standards and the requirements of the underlying residential zone and of the UR/CR overlay zones.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses must: 1) minimize and control any increases in surface water runoff so that receiving water quality and shore properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety.

The proposed recreational use as conditioned is consistent with these general standards for development within the shoreline area, thereby minimizing any adverse impact to the shoreline area, to water quality and will not be a hazard to the public health and safety.

SMC 23.60.204 Piers and Floats Accessory to Residential Development

The proposal satisfies all applicable standards except for height, in that portions of the railing for the bridge would exceed five feet in height. These portions of railing must be reduced in height or eliminated. SSDP approval is so conditioned.

SMC 23.60.540 and SMC 23.60.390 - Development Standards for the UR and CR Environments

The development standard for the UR and CR environments pertinent to this proposal concerns lot coverage of all structures, including piers. The CR environment development standards also contain requirements for natural area protection.

The lot coverage regulations for both shoreline environments require that structures, including piers, not occupy an area greater than thirty-five (35) percent of a waterfront lot. Under the proposal, total lot coverage would be approximately 3,400 square feet on the over 34,000 square foot site. Hence, lot coverage meet requirements.

Natural area protection of the CR environment requires that all developments in this environment be located and designed to minimize adverse impacts to natural areas of biological

significance and that development in critical natural areas be minimized. Critical areas include fish spawning areas and migration routes. The biological evaluation prepared by Shapiro and Associates (12 March 2003) evaluated effects on bald eagle, coastal/Puget Sound bull trout, and Puget Sound chinook salmon, concluding that there may be minor effects on all, but no adverse affects. The report supported the mitigation measures being proposed, including the narrow-gauge steel piers, the narrow-bridge concept, 4 prisms to distribute light beneath the pier decking, and all construction phase mitigation measures.

C. The Provisions of Chapter 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). Since the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistent with WAC 173-14 and RCW 90.58. As discussed in the foregoing analysis, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED**. Conditions are listed at the end of this report.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the Environmental Checklist (dated 20 March 2003), and supplemental information in the project file submitted by the applicant. The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, "*Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*" subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

Short-term Impacts

The following temporary or construction-related impacts are expected: water impacts (disturbance of migrating fish by sedimentation and clouding due to pile driving); and 2) noise impacts (also due to pile driving). These impacts are not considered significant because they are temporary (Section 25.05.794, SMC). Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

Water Impacts

Construction impacts to the lake environment will be mitigated by construction company procedures and the Washington Department of Fish and Wildlife's restrictions on construction times. Specifically, all construction work will occur from a floating barge; there will be no equipment on the shoreline and the barge will not be grounded. Construction activity will be restricted to the window, which is 16 July through 15 March as outlined in the biological evaluation.

Noise Impacts

Noise associated with pile driving would likely affect resident fish, but not adversely, according to the Shapiro and Associate's report. Because of the transient (one-day) duration of the pile driving, no mitigation is warranted.

Compliance with these applicable policies and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. Other city codes and/or ordinances apply to the proposal and will provide mitigation for the environmental health impacts.

Long-term Impacts

Impacts on Fish

The anticipated long-term impact from this proposal is shading of the underwater area beneath the proposed dock. The biological evaluation reach as "may affect, not likely to adversely affect" determination with respect to Puget Sound bull trout and chinook salmon, which are listed as Threatened under the Endangered Species Act. Specifically, the proposal will mitigate these impacts by changes in the design and construction of the pier (there will be a reduction in the number of pilings used for support, an arching of the walkway ramp for greater clearance between the ramp and the water surface and hence less shading of the subsurface area in the nearshore of Lake Washington and the installation of 4 prisms to direct light under the pier in the deeper water, and planting of shoreline vegetation along the bank.

Summary

In conclusion, several effects on the environment may result from the proposed development, however by following the proposed mitigation measures, these effects will not be long term or

significant. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS – SEPA and SHORELINES

Prior to Issuance of the Master Use Permit:

The applicant/responsible party shall:

1. Revise plans to reduce the height of the bridge railing to comport with the 6-foot height limit of 23.60.204B.7, or eliminate portions of the railing not able to comport with that standard.
2. Revise plans to include a landscaping plan clearly implementing the recommendations of the March 12, 2003 Biological Evaluation. All species shall be native, or otherwise documented to be appropriate for waterfront habitat restoration.

For the life of the project:

The owner(s)/responsible party(s) shall:

1. Maintain the following aspects of the proposal: steel pilings, narrow bridge design, 4 prisms, shoreland revegetation, barge-based construction, and window of construction between 16 July and 15 March.
2. Vegetation planted along the shoreline shall be maintained according to Appendix B Planting Plan and Monitoring Protocols, of the March 12, 2003 Biological Evaluation

3. The light transmission features installed in the new decking shall be maintained through the life of the project through cleaning of the prisms or removal of the debris in the grating as appropriate.
4. All treated lumber to be used for the project shall meet or exceed the standards established in "Best Management Practices for the Use of Treated Wood in Aquatic Environments" developed by the Western Wood Preservers Institute
<http://www.wwpinstitute.org/>.
5. Non-treated material shall be used in the decking.

Signature: (signature on file) Date: December 18, 2003
Paul M. Janos, Land Use Planner
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